

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**JAVIER RODRIGUEZ,
and all others similarly situated under
29 U.S.C. § 216(b),
Plaintiff,**

v.

**TARLAND, L.L.C.,
THOMAS MCGILL,
and TARA RUBSAMEN
Defendants.**

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Cause No. 3:18-CV-00088-E-BH

**PLAINTIFF’S RESPONSE TO DEFENDANT TARA RUBSAMEN’S
MOTION FOR SUMMARY JUDGMENT**

COMES NOW Plaintiff, Javier Rodriguez (“Plaintiff”) and files this Response to the Motion for Summary Judgment filed by Defendant, Tara Rubsamen (“Rubsamen”) (**DE 48**), and would respectfully show the Court as follows:

SUMMARY

1. Plaintiff file his complaint against Defendants Tarland, L.L.C. (“Tarland”), and Thomas McGill (“McGill”), alleging that Defendants committed overtime violations of the Fair Labor Standards Act, 29 U.S.C. §§ 201-216 (“FLSA”) on January 15, 2018. (**DE 1**).
2. Plaintiff’s First Amended Complaint was filed on June 13, adding Rubsamen as a defendant and alleging that Rubsamen too committed overtime violations of the FLSA. (**DE 32**).
3. Defendant Rubsamen’s current live pleading is Rubsamen’s Answer to the Amended Complaint, filed on July 17, 2019. (**DE 36**).
4. On September 30, 2019 Rubsamen filed a Motion for Summary Judgment and Brief in Support. (**DE 48 and DE 49, with appendix, DE49-1**).
5. The basis of Rubsamen’s Motion for Summary Judgment apparently is:

- a. Rubsamen did not have control over Tarland sufficient to be an “employer,” as defined by the FLSA.
6. Under Federal Rule of Civil Procedure 56, Rubsamen is not entitled to summary judgment on this basis. There are genuine questions of material fact regarding whether or not Rubsamen’s involvement in, and control over the operation of the other Defendants was sufficient to make Rubsamen Plaintiff’s employer under the FLSA.
7. As provided by Local Rule 56.4(b), each of the required matters set forth in Local Rule 56.4(a) will be set forth in the Brief in Support of Plaintiff’s Response to Rubsamen’s Motion for Summary Judgment filed in this case.

Conclusion and Prayer

For these reasons, Plaintiff respectfully requests that the Court deny Rubsamen’s Motion for Summary Judgment in its entirety and grant Plaintiff all such other relief that the Court deems just.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on all counsel and parties of record by electronic service in accordance with the local rules of the United States District Court for the Northern District of Texas, Dallas Division this 18th day of October, 2019.

s/ Robert L. Manteuffel
Robert L. Manteuffel
Counsel for the Plaintiff(s)